

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

LENDIA DE JESUS

Plaintiff

v.

CIVIL NO. 04-2373(DRD)

LTT CARD SERVICES, INC, et als.,

Defendants

ORDER

Pending before the Court is defendants' *Second Motion to Dismiss Because of Lack of Jurisdiction*. (Docket No. 22). In August 9, 2005, the Court issued an *Order* wherein defendants' first request for dismissal was granted as to all claims **except** those brought forth under ADA and Title VII. There, the Court reasoned that defendants had failed to provide the Court with copies of payrolls belonging to the time-period during which plaintiff was under its employ and the preceding year, thus, precluding the Court from determining if LTT Card Services, Inc. Was an employer within the meaning of Title VII and the ADA (i.e. if it had more than fifteen employees for each working day in each of twenty or more calendar weeks). (Docket No. 16). In said *Order*, the Court also advised defendants that they "may reinstate the motion by providing the payrolls for 2002 (the year plaintiff stated in her complaint that the alleged discrimination that resulted in plaintiff's separation from employment occurred) and 2001, the preceding year." *Id.* at 9, n.4. Defendants proceeded accordingly and filed the instant motion with the pertinent payrolls.

After a review of defendants' request and the attached payrolls, the Court finds that LTT Card Services, Inc. does not qualify as an employer pursuant to the statutory definition of Title VII and the Americans with Disabilities Act. It stems from said payrolls that LTT had mostly fourteen employees during 2001 and 2002. Although it is unquestionable that at certain points during 2002 LTT did have fifteen employees, it was never for more than nine weeks. Accordingly, the Court now proceeds to **DISMISS WITH PREJUDICE** all of plaintiff's remaining claims against defendants. Since the Court dismissed plaintiff's federal action, pursuant to 28 U.S.C. § 1367 (c) as interpreted in González de Blasini v. Family Department, 377 F.3d 81, 89 (1st Cir. 2004); Claudio Gotay v. Becton Dickinson Caribe, Ltd., 375 F.3d 99, 105 (1st Cir. 2004); and Rodríguez v. Doral Mortgage, 57 F.3d 1168, 1177 (1st Cir, 1995) all claims pursuant to state law are hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

In San Juan, Puerto Rico, on this the 10th day of April of 2006.

s/ Daniel R. Dominguez
DANIEL R. DOMINGUEZ
U.S. DISTRICT JUDGE